

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

In re)	
)	
Steven J Zullo)	
)	Case No. 09-13497-SSM
Debtor.)	Chapter 13
_____)	

**MOTION FOR APPROVAL OF
PHYSICAL DAMAGE INSURANCE SETTLEMENT
REGARDING MOTOR VEHICLE
AND FOR SUBSTITUTION OF COLLATERAL OF NIH FEDERAL CREDIT UNION**

COMES NOW the above-named debtor, by and through his attorney of record, and respectfully moves the Court pursuant to Section 1329 of Title 11 of the United States Code and Rule 9013 of the Rules of Bankruptcy Procedure for the entry of an order approving a physical damage insurance settlement and substitution of collateral and in support hereof alleges and says that:

1. This case was commenced by the filing of a petition under Chapter 13 on May 3, 2009. This Court has jurisdiction over this matter under 28 U.S.C. § 1334. This is a core proceeding.
2. The Debtor's Chapter 13 plan was confirmed by order of this Court.
3. The petition and schedules in this case list a secured debt in favor of NIH Federal Credit Union ("NIH FCU") secured by a 2003 Chevy Cavalier Coupe. The proof of claim (Claim #3) was in the amount of \$1955.60, and is fully secured and is treated as such under the plan, being paid at 4% interest. According to the Chapter 13 Trustee's current accounting, \$760.40 in principal and

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\$115.00 in interest has been paid on this claim through the plan, leaving a balance of \$1,195.20.

4. The debtor avers that this vehicle was totally destroyed in an automobile accident and that GEICO Insurance ("GEICO") has offered to settle the claim for the sum of \$5,341.22. Clear title to the vehicle must be conveyed to Geico in consideration of this settlement.

5. The debtor is informed and believes and therefore alleges that the offer of Geico is fair and reasonable.

6. The debtor therefore moves this Court to approve the settlement to be paid to the debtor, which settlement will be used in full or in part to purchase a replacement vehicle of comparable price/value, with NIH FCU to be granted the first lien on the title to the replacement vehicle.

7. The debtor further moves this Court to require NIH FCU to release the lien on the title to the 2003 Chevy Cavalier Coupe and deliver the title to the attorney for the debtor within fourteen (14) days of the receipt of the order granting this motion.

8. The debtor further moves the Court to order GEICO to deliver the settlement check made payable to Chung & Press, P.C., Trust Account, within fourteen (14) days of the receipt of the order granting this motion.

9. The Debtor further moves for leave to purchase a replacement vehicle worth (at NADA trade in) at least twice the value of the remaining balance due to NIH FCU under the Plan on account of its secured claim, the title for which will reflect the lien in favor of NIH FCU, with Debtor's counsel to hold the settlement funds in escrow in an amount sufficient to fully satisfy the NIH FCU claim until delivery to NIH FCU of a title reflecting the lien in favor of NIH FCU. Upon completion of the Plan and entry of a discharge, or upon satisfaction in full of the secured claim, NIH FCU shall release the

lien on the title to the replacement vehicle and return the title to Debtor within 14 days thereof.

WHEREFORE, the debtor respectfully requests that the Court enter an Order as follows:

- A. That the debtor's motion for approval of a physical damage insurance settlement be granted as set forth herein with the net proceeds to be paid as provided herein;
- B. That the Debtor be granted leave to purchase a replacement vehicle, with NIH FCU to retain the first lien on the title to the replacement vehicle, as provided herein;
- C. That NIH FCU be ordered to release its lien on the title of the 2003 Chevy Cavalier and deliver said title to the office of the attorney for the debtor within fourteen (14) days of entry of the order granting this motion;
- D. That Geico be ordered to issue the settlement check and deliver it to the office of Chung & Press, PC, within fourteen (14) days of the order granting this motion;
- E. That the debtor have such other and further relief as to the Court may seem just and proper.

Dated: December 29, 2010.

Respectfully submitted,

/s/Daniel M. Press
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CERTIFICATE OF SERVICE

This is to certify that on this 29th day of December, 2010, I caused the foregoing Motion to be

served by CM/ECF upon the Chapter 13 Trustee, the Office of the U.S. Trustee, and all creditors having requested notice, and by first class mail upon:

Mr. Larry Howard, Examiner Code ABOJ
GEICO Claims Dept.
P.O. Box 9505
Fredericksburg, VA 22403-9504

JOSEPH R THOMAS, Reg. Agt.
Government Employees Insurance Company (GEICO)
1345 PERIMETER PKWY
VIRGINIA BEACH VA 23454-5882

NIHFCU
P.O. Box 6475
Rockville, MD 20849-6475

Juli Anne Callis, President/CEO
NIH Federal Credit Union
111 Rockville Pike
Rockville MD 20850
(also by certified mail, return receipt requested)

/s/Daniel M. Press
Daniel M. Press